

AN ACT concerning public employee benefits.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Pension Code is amended by adding Sections 3-110.9, 8-226.7, and 9-121.17 and by changing Sections 5-146, 5-147, 5-152, and 7-139 as follows:

(40 ILCS 5/3-110.9 new)

Sec. 3-110.9. Transfer to Article 9.

(a) Until 6 months after the effective date of this amendatory Act of the 95th General Assembly, any active member of a pension fund established under Article 9 of this Code may apply for transfer of up to 6 years of his or her creditable service accumulated in any police pension fund under this Article to the Article 9 fund. Such creditable service shall be transferred only upon payment by such police pension fund to the Article 9 fund of an amount equal to:

(1) the amounts accumulated to the credit of the applicant on the books of the fund on the date of transfer;
and

(2) employer contributions in an amount equal to the amount determined under subparagraph (1); and

(3) any interest paid by the applicant in order to reinstate service.

Participation in the police pension fund shall terminate on the date of transfer.

(b) Until 6 months after the effective date of this amendatory Act of the 95th General Assembly, any active member of an Article 9 fund may reinstate service that was terminated by receipt of a refund, by payment to the police pension fund of the amount of the refund with interest thereon at the rate of 6% per year, compounded annually, from the date of refund to the date of payment.

(40 ILCS 5/5-146) (from Ch. 108 1/2, par. 5-146)

Sec. 5-146. Wives and widows not entitled to annuities. The following wives or widows have no right to annuity from the fund:

(a) A wife or widow, married subsequent to the effective date, of a policeman who dies in service, if the marriage occurred less than one year prior to the policeman's death, except with respect to a policeman who dies in the performance of an act of duty, as provided in Section 5-147 in cases where a widow entitled to an annuity remarries after age 60, or when a widow entitled to an annuity remarries prior to attaining age 60 and the marriage is terminated, at any time thereafter, by dissolution of marriage, declaration of invalidity of marriage or the death of the husband; if after an evidentiary hearing, however, the Board, at its sole discretion determines that special circumstances exist warranting payment of a widow's

annuity, then and only then shall the Board have authority to grant and award the annuity that would have been otherwise available;

(b) A wife or widow of a policeman who withdraws, whether or not he enters upon annuity, and dies out of service, if the marriage occurred after the effective date and less than one year prior to the policeman's death, and the widow was not his wife while he was in service; if after an evidentiary hearing, however, the Board, at its sole discretion determines that special circumstances exist warranting payment of a widow's annuity, then and only then shall the Board have authority to grant and award the annuity that would have been otherwise available;

(c) A wife or widow of a policeman who (1) has served 10 or more years, (2) dies out of service after he has withdrawn, and (3) has received a refund of the sums to his credit for annuity, and such refund has not been repaid in accordance with the other provisions of this Article;

(d) A wife or widow of a policeman who dies out of service after he has withdrawn, and who has not served at least 10 years;

(e) A former wife of a policeman who has had a judgment of dissolution of marriage from her policeman husband annulled, vacated or set aside by court proceedings subsequent to the policeman's death, unless (1) the proceedings were filed within 5 years after the date of dissolution of marriage, and within 1

year after the policeman's death, and (2) the board was made a party to the proceedings;

(f) A widow of a policeman who died prior to January 1, 1922, if she had been denied a pension by the board of trustees of any police pension fund existing in the city by operation of any other law;

(g) A widow of a policeman who has been denied a pension or annuity by the board created by this Article and who files a petition for a rehearing, or files a second application for annuity, unless the petition for rehearing or second application is filed within 1 year from the date upon which the annuity was denied by the board; provided, that in the case of legal disability, the year of limitation shall begin on the day after the termination of such disability.

(Source: P.A. 86-272.)

(40 ILCS 5/5-147) (from Ch. 108 1/2, par. 5-147)

Sec. 5-147. Widow's marriage to terminate annuity.

(a) Beginning on the effective date of this amendatory Act of the 95th General Assembly, a widow's annuity shall no longer be subject to termination or suspension under this Section due to remarriage. Any widow's annuity that was previously terminated or suspended under this Section by reason of remarriage shall, upon application, be resumed as of the date of the application, but in no event sooner than the effective date of this amendatory Act. The resumption shall not be

retroactive. This subsection (a) applies regardless of whether or not the deceased policeman was in service on or after the effective date of this amendatory Act of the 95th General Assembly.

(b) This subsection (b) does not apply on or after the effective date of this amendatory Act of the 95th General Assembly.

Any annuity granted to a widow shall be suspended when she remarries, unless she remarries after attaining age 60 or the annuity was granted under Section 5-144 and the remarriage takes place after October 31, 1989. Except as otherwise provided by this Section, if a widow remarries before reaching age 60, annuity payment shall be suspended, but the widow's annuity payments shall be resumed if the subsequent marriage ends either by dissolution of marriage, declaration of invalidity of marriage or the death of the husband. If a widow remarries after attaining age 60, or the annuity was granted under Section 5-144 and the remarriage takes place after June 1, 1990, regardless of whether or not the deceased policeman was in service on or after the effective date of this amendatory Act of 1991, the widow's annuity shall continue without interruption.

If when a widow dies she has not received, in form of annuity, an amount equal to the accumulated employee contributions for widow's annuity, the difference between such accumulated contributions and the sum received by her, along

with any part of the accumulated contributions for age and service annuity remaining in the fund at her death shall be refunded to the policemen's children, in equal parts to each; provided, if any child is less than age 18, such part of any such amount required to pay annuities to such children shall be transferred to the child's annuity reserve. If no children or descendants thereof survive the policeman, such refund shall be paid to the estate of the policeman. In making refunds under this Section, no interest shall be considered upon either the total of annuity payments made or the amounts subject to refund.

(Source: P.A. 86-1488.)

(40 ILCS 5/5-152) (from Ch. 108 1/2, par. 5-152)

Sec. 5-152. Child's annuity - Conditions - Amount. A child's annuity shall be payable in the following cases of policemen who die on or after the effective date: (a) A policeman whose death results from injury incurred in the performance of an act or acts of duty; (b) a policeman who dies in service from any cause; (c) a policeman who withdraws upon or after attainment of age 50 and who enters upon or is eligible for annuity; (d) a present employee with at least 20 years of service who dies after withdrawal, whether or not he has entered upon annuity.

A child to be eligible must have been born or legally adopted before the policeman has withdrawn from service. In the

case of an adopted child, the policeman shall be married and living with his wife at the time of the adoption, and the proceedings for adoption must have been initiated at least 6 months prior to the policeman's death. The requirement that the proceedings for adoption be initiated at least 6 months prior to the policeman's death does not apply where death occurs as a result of an act of duty.

Only one annuity shall be granted and paid for the benefit of any child if both parents have been policemen.

The annuity shall be paid, without regard to the fact that the death of the deceased policeman parent may have occurred prior to the effective date of this amendatory Act of 1975, in an amount equal to 10% of the annual maximum salary attached to the classified civil service position of a first class patrolman on July 1, 1975, or the date of the policeman's death, whichever is later, for each child while a widow or widower of the deceased policeman survives and in an amount equal to 15% of the annual maximum salary attached to the classified civil service position of a first class patrolman on July 1, 1975, or the date of the policeman's death, whichever is later, while no widow or widower shall survive, provided that if the combined annuities for the widow and children of a policeman who dies on or after September 26, 1969, as the result of an act of duty, or for the children of such policeman in any case wherein a widow or widower does not exist, exceed the salary that would ordinarily have been paid to him if he

had been in the active discharge of his duties, all such annuities shall be reduced pro rata so that the combined annuities for the family shall not exceed such limitation. The compensation portion of the annuity of the widow shall not be considered in making such reduction. No age limitation in this Section or Section 5-151 shall apply to a child who is so physically or mentally handicapped as to be unable to support himself or herself. Benefits payable under this Section shall not be reduced or terminated by reason of any child's attainment of age 18 if he is then dependent by reason of a physical or mental disability but shall continue to be paid as long as such dependency continues. For the purposes of this subsection, "disability" means inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

In the case of a family of a policeman who dies on or after September 26, 1969, as the result of any cause other than the performance of an act of duty, in which annuities for such family exceed an amount equal to 60% of the salary that would ordinarily have been paid to him if he had been in the active discharge of his duties, all such annuities shall be reduced pro rata so that the combined annuities shall not exceed such limitation.

Child's annuity shall be paid to the parent providing for the child, unless another person is appointed by a court of law as the child's guardian.

(Source: P.A. 79-699; 79-881; 79-1454.)

(40 ILCS 5/7-139) (from Ch. 108 1/2, par. 7-139)

Sec. 7-139. Credits and creditable service to employees.

(a) Each participating employee shall be granted credits and creditable service, for purposes of determining the amount of any annuity or benefit to which he or a beneficiary is entitled, as follows:

1. For prior service: Each participating employee who is an employee of a participating municipality or participating instrumentality on the effective date shall be granted creditable service, but no credits under paragraph 2 of this subsection (a), for periods of prior service for which credit has not been received under any other pension fund or retirement system established under this Code, as follows:

If the effective date of participation for the participating municipality or participating instrumentality is on or before January 1, 1998, creditable service shall be granted for the entire period of prior service with that employer without any employee contribution.

If the effective date of participation for the

participating municipality or participating instrumentality is after January 1, 1998, creditable service shall be granted for the last 20% of the period of prior service with that employer, but no more than 5 years, without any employee contribution. A participating employee may establish creditable service for the remainder of the period of prior service with that employer by making an application in writing, accompanied by payment of an employee contribution in an amount determined by the Fund, based on the employee contribution rates in effect at the time of application for the creditable service and the employee's salary rate on the effective date of participation for that employer, plus interest at the effective rate from the date of the prior service to the date of payment. Application for this creditable service may be made at any time while the employee is still in service.

A municipality that (i) has at least 35 employees; (ii) is located in a county with at least 2,000,000 inhabitants; and (iii) maintains an independent defined benefit pension plan for the benefit of its eligible employees may restrict creditable service in whole or in part for periods of prior service with the employer if the governing body of the municipality adopts an irrevocable resolution to restrict that creditable service and files the resolution with the board before the municipality's effective date of

participation.

Any person who has withdrawn from the service of a participating municipality or participating instrumentality prior to the effective date, who reenters the service of the same municipality or participating instrumentality after the effective date and becomes a participating employee is entitled to creditable service for prior service as otherwise provided in this subdivision (a)(1) only if he or she renders 2 years of service as a participating employee after the effective date. Application for such service must be made while in a participating status. The salary rate to be used in the calculation of the required employee contribution, if any, shall be the employee's salary rate at the time of first reentering service with the employer after the employer's effective date of participation.

2. For current service, each participating employee shall be credited with:

a. Additional credits of amounts equal to each payment of additional contributions received from him under Section 7-173, as of the date the corresponding payment of earnings is payable to him.

b. Normal credits of amounts equal to each payment of normal contributions received from him, as of the date the corresponding payment of earnings is payable to him, and normal contributions made for the purpose

of establishing out-of-state service credits as permitted under the conditions set forth in paragraph 6 of this subsection (a).

c. Municipality credits in an amount equal to 1.4 times the normal credits, except those established by out-of-state service credits, as of the date of computation of any benefit if these credits would increase the benefit.

d. Survivor credits equal to each payment of survivor contributions received from the participating employee as of the date the corresponding payment of earnings is payable, and survivor contributions made for the purpose of establishing out-of-state service credits.

3. For periods of temporary and total and permanent disability benefits, each employee receiving disability benefits shall be granted creditable service for the period during which disability benefits are payable. Normal and survivor credits, based upon the rate of earnings applied for disability benefits, shall also be granted if such credits would result in a higher benefit to any such employee or his beneficiary.

4. For authorized leave of absence without pay: A participating employee shall be granted credits and creditable service for periods of authorized leave of absence without pay under the following conditions:

a. An application for credits and creditable service is submitted to the board while the employee is in a status of active employment, and within 2 years after termination of the leave of absence period for which credits and creditable service are sought.

b. Not more than 12 complete months of creditable service for authorized leave of absence without pay shall be counted for purposes of determining any benefits payable under this Article.

c. Credits and creditable service shall be granted for leave of absence only if such leave is approved by the governing body of the municipality, including approval of the estimated cost thereof to the municipality as determined by the fund, and employee contributions, plus interest at the effective rate applicable for each year from the end of the period of leave to date of payment, have been paid to the fund in accordance with Section 7-173. The contributions shall be computed upon the assumption earnings continued during the period of leave at the rate in effect when the leave began.

d. Benefits under the provisions of Sections 7-141, 7-146, 7-150 and 7-163 shall become payable to employees on authorized leave of absence, or their designated beneficiary, only if such leave of absence is creditable hereunder, and if the employee has at

least one year of creditable service other than the service granted for leave of absence. Any employee contributions due may be deducted from any benefits payable.

e. No credits or creditable service shall be allowed for leave of absence without pay during any period of prior service.

5. For military service: The governing body of a municipality or participating instrumentality may elect to allow creditable service to participating employees who leave their employment to serve in the armed forces of the United States for all periods of such service, provided that the person returns to active employment within 90 days after completion of full time active duty, but no creditable service shall be allowed such person for any period that can be used in the computation of a pension or any other pay or benefit, other than pay for active duty, for service in any branch of the armed forces of the United States. If necessary to the computation of any benefit, the board shall establish municipality credits for participating employees under this paragraph on the assumption that the employee received earnings at the rate received at the time he left the employment to enter the armed forces. A participating employee in the armed forces shall not be considered an employee during such period of service and no additional death and no disability benefits

are payable for death or disability during such period.

Any participating employee who left his employment with a municipality or participating instrumentality to serve in the armed forces of the United States and who again became a participating employee within 90 days after completion of full time active duty by entering the service of a different municipality or participating instrumentality, which has elected to allow creditable service for periods of military service under the preceding paragraph, shall also be allowed creditable service for his period of military service on the same terms that would apply if he had been employed, before entering military service, by the municipality or instrumentality which employed him after he left the military service and the employer costs arising in relation to such grant of creditable service shall be charged to and paid by that municipality or instrumentality.

Notwithstanding the foregoing, any participating employee shall be entitled to creditable service as required by any federal law relating to re-employment rights of persons who served in the United States Armed Services. Such creditable service shall be granted upon payment by the member of an amount equal to the employee contributions which would have been required had the employee continued in service at the same rate of earnings during the military leave period, plus interest at the

effective rate.

5.1. In addition to any creditable service established under paragraph 5 of this subsection (a), creditable service may be granted for up to 24 months of service in the armed forces of the United States.

In order to receive creditable service for military service under this paragraph 5.1, a participating employee must (1) apply to the Fund in writing and provide evidence of the military service that is satisfactory to the Board; (2) obtain the written approval of the current employer; and (3) make contributions to the Fund equal to (i) the employee contributions that would have been required had the service been rendered as a member, plus (ii) an amount determined by the board to be equal to the employer's normal cost of the benefits accrued for that military service, plus (iii) interest on items (i) and (ii) from the date of first membership in the Fund to the date of payment. If payment is made during the 6-month period that begins 3 months after the effective date of this amendatory Act of 1997, the required interest shall be at the rate of 2.5% per year, compounded annually; otherwise, the required interest shall be calculated at the regular interest rate.

6. For out-of-state service: Creditable service shall be granted for service rendered to an out-of-state local governmental body under the following conditions: The

employee had participated and has irrevocably forfeited all rights to benefits in the out-of-state public employees pension system; the governing body of his participating municipality or instrumentality authorizes the employee to establish such service; the employee has 2 years current service with this municipality or participating instrumentality; the employee makes a payment of contributions, which shall be computed at 8% (normal) plus 2% (survivor) times length of service purchased times the average rate of earnings for the first 2 years of service with the municipality or participating instrumentality whose governing body authorizes the service established plus interest at the effective rate on the date such credits are established, payable from the date the employee completes the required 2 years of current service to date of payment. In no case shall more than 120 months of creditable service be granted under this provision.

7. For retroactive service: Any employee who could have but did not elect to become a participating employee, or who should have been a participant in the Municipal Public Utilities Annuity and Benefit Fund before that fund was superseded, may receive creditable service for the period of service not to exceed 50 months; however, a current or former elected or appointed official of a participating municipality may establish credit under this paragraph 7 for more than 50 months of service as an official of that

municipality, if the excess over 50 months is approved by resolution of the governing body of the affected municipality filed with the Fund before January 1, 2002.

Any employee who is a participating employee on or after September 24, 1981 and who was excluded from participation by the age restrictions removed by Public Act 82-596 may receive creditable service for the period, on or after January 1, 1979, excluded by the age restriction and, in addition, if the governing body of the participating municipality or participating instrumentality elects to allow creditable service for all employees excluded by the age restriction prior to January 1, 1979, for service during the period prior to that date excluded by the age restriction. Any employee who was excluded from participation by the age restriction removed by Public Act 82-596 and who is not a participating employee on or after September 24, 1981 may receive creditable service for service after January 1, 1979. Creditable service under this paragraph shall be granted upon payment of the employee contributions which would have been required had he participated, with interest at the effective rate for each year from the end of the period of service established to date of payment.

8. For accumulated unused sick leave: A participating employee who is applying for a retirement annuity shall be entitled to creditable service for that portion of the

employee's accumulated unused sick leave for which payment is not received, as follows:

a. Sick leave days shall be limited to those accumulated under a sick leave plan established by a participating municipality or participating instrumentality which is available to all employees or a class of employees.

b. Only sick leave days accumulated with a participating municipality or participating instrumentality with which the employee was in service within 60 days of the effective date of his retirement annuity shall be credited; If the employee was in service with more than one employer during this period only the sick leave days with the employer with which the employee has the greatest number of unpaid sick leave days shall be considered.

c. The creditable service granted shall be considered solely for the purpose of computing the amount of the retirement annuity and shall not be used to establish any minimum service period required by any provision of the Illinois Pension Code, the effective date of the retirement annuity, or the final rate of earnings.

d. The creditable service shall be at the rate of 1/20 of a month for each full sick day, provided that no more than 12 months may be credited under this

subdivision 8.

e. Employee contributions shall not be required for creditable service under this subdivision 8.

f. Each participating municipality and participating instrumentality with which an employee has service within 60 days of the effective date of his retirement annuity shall certify to the board the number of accumulated unpaid sick leave days credited to the employee at the time of termination of service.

9. For service transferred from another system: Credits and creditable service shall be granted for service under Article 3, 4, 5, 8, 14, or 16 of this Act, to any active member of this Fund, and to any inactive member who has been a county sheriff, upon transfer of such credits pursuant to Section 3-110.3, 4-108.3, 5-235, 8-226.7, 14-105.6, or 16-131.4, and payment by the member of the amount by which (1) the employer and employee contributions that would have been required if he had participated in this Fund as a sheriff's law enforcement employee during the period for which credit is being transferred, plus interest thereon at the effective rate for each year, compounded annually, from the date of termination of the service for which credit is being transferred to the date of payment, exceeds (2) the amount actually transferred to the Fund. Such transferred service shall be deemed to be service as a sheriff's law enforcement employee for the

purposes of Section 7-142.1.

10. For service transferred from an Article 3 system under Section 3-110.8: Credits and creditable service shall be granted for service under Article 3 of this Act as provided in Section 3-110.8, to any active member of this Fund upon transfer of such credits pursuant to Section 3-110.8. If the amount by which (1) the employer and employee contributions that would have been required if he had participated in this Fund during the period for which credit is being transferred, plus interest thereon at the effective rate for each year, compounded annually, from the date of termination of the service for which credit is being transferred to the date of payment, exceeds (2) the amount actually transferred to the Fund, then the amount of creditable service established under this paragraph 10 shall be reduced by a corresponding amount in accordance with the rules and procedures established under this paragraph 10.

The board shall establish by rule the manner of making the calculation required under this paragraph 10, taking into account the appropriate actuarial assumptions; the member's service, age, and salary history; the level of funding of the employer; and any other factors that the board determines to be relevant.

(b) Creditable service - amount:

1. One month of creditable service shall be allowed for

each month for which a participating employee made contributions as required under Section 7-173, or for which creditable service is otherwise granted hereunder. Not more than 1 month of service shall be credited and counted for 1 calendar month, and not more than 1 year of service shall be credited and counted for any calendar year. A calendar month means a nominal month beginning on the first day thereof, and a calendar year means a year beginning January 1 and ending December 31.

2. A seasonal employee shall be given 12 months of creditable service if he renders the number of months of service normally required by the position in a 12-month period and he remains in service for the entire 12-month period. Otherwise a fractional year of service in the number of months of service rendered shall be credited.

3. An intermittent employee shall be given creditable service for only those months in which a contribution is made under Section 7-173.

(c) No application for correction of credits or creditable service shall be considered unless the board receives an application for correction while (1) the applicant is a participating employee and in active employment with a participating municipality or instrumentality, or (2) while the applicant is actively participating in a pension fund or retirement system which is a participating system under the Retirement Systems Reciprocal Act. A participating employee or

other applicant shall not be entitled to credits or creditable service unless the required employee contributions are made in a lump sum or in installments made in accordance with board rule.

(d) Upon the granting of a retirement, surviving spouse or child annuity, a death benefit or a separation benefit, on account of any employee, all individual accumulated credits shall thereupon terminate. Upon the withdrawal of additional contributions, the credits applicable thereto shall thereupon terminate. Terminated credits shall not be applied to increase the benefits any remaining employee would otherwise receive under this Article.

(Source: P.A. 93-933, eff. 8-13-04; 94-356, eff. 7-29-05.)

(40 ILCS 5/8-226.7 new)

Sec. 8-226.7. Transfer to Article 7. Until 6 months after the effective date of this amendatory Act of the 95th General Assembly, any member who is a sheriff's law enforcement employee under Article 7 of this Code who is eligible to transfer service credit to that Fund from this Fund under paragraph (9) of subsection (a) of Section 7-139 may apply for transfer of that service credit to the Illinois Municipal Retirement Fund. The credits and creditable service shall be transferred upon application, and shall include payment by this Fund to the Illinois Municipal Retirement Fund of:

(1) the amounts accumulated to the credit of the

applicant for that service, including interest, on the books of the Fund on the date of transfer; and
(2) the corresponding employer credits computed and credited for that service under this Article, including interest, on the books of the Fund on the date of transfer.
Participation in this Fund as to the credits transferred under this Section shall terminate on the date of transfer.

(40 ILCS 5/9-121.17 new)

Sec. 9-121.17. Transfer from Article 3. Until 6 months after the effective date, an employee may transfer to this Fund up to 6 years of creditable service accumulated under Article 3 of this Code, upon payment to this Fund of (1) the amount by which the employee and employer contributions that would have been required if the employee had participated in this Fund during the period for which credit is being transferred, plus interest, exceeds the amount actually transferred from the Article 3 fund to this Fund, plus (2) interest on the amount determined under item (1) at the rate of 6% per year, compounded annually, from the date of the transfer to the date of payment.

Section 90. The State Mandates Act is amended by adding Section 8.31 as follows:

(30 ILCS 805/8.31 new)

Public Act 095-0504

SB1380 Enrolled

LRB095 10799 AMC 31047 b

Sec. 8.31. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act of the 95th General Assembly.

Section 99. Effective date. This Act takes effect upon becoming law.